

Office of the Independent Police Auditor

Monthly Report

December 2011



Office of the
**INDEPENDENT
POLICE AUDITOR**

BAY AREA RAPID TRANSIT DISTRICT

January 9, 2012

This report is filed pursuant to the BART Citizen Oversight Model, Chapter 1-05 (A), which requires the Office of the Independent Police Auditor (OIPA) to submit reports to the Citizen Review Board. This report provides information for the period December 1, 2011 through December 31, 2011. It is the intention of the OIPA to make this report and all subsequent reports in this series available at www.bart.gov/policeauditor.¹

Quantitative Report

	Number of Cases Filed ²	Number of Open Cases ³	Number of OIPA Investigations Concluded	Number of Cases Appealed to OIPA ⁴	Number of Cases Appealed by CRB ⁵
June 27, 2011 - October 31, 2011	32	53	0	0	0
November 2011	11	60	0	0	0
December 2011	4	56	0	0	0

Types of Cases Filed

Citizen Complaints	2
Administrative Investigations	1
Comments of Non-Complaint	1
TOTAL	4

Citizen Complaints Received per Department

OIPA	1
BART Police Department	1
TOTAL	2

Complaints/Investigations Initiated During Reporting Period**Actions Taken/# of Days Elapsed⁶**

During the month of December 2011, 1 Citizen Complaint was received by the OIPA:

Complaint #	Nature of Complaint	Action Taken	# of Days Elapsed Since Complaint Filed
1	Courtesy	BART Police Department was notified and an investigation was initiated.	23

During the month of December 2011, 1 Citizen Complaint was received by the BART Police Department:

Complaint #	Nature of Complaint	Action Taken	# of Days Elapsed Since Complaint Filed
1	Bias-based Policing; Courtesy	An investigation was initiated.	31

During the month of December 2011, 1 Administrative Investigation was generated by the BART Police Department:

Investigation #	Nature of Investigation	Action Taken	# of Days Elapsed Since Investigation Initiated
1	Truthfulness; Procedure	An investigation was initiated.	27

During the month of December 2011, 1 Comment of Non-Complaint was received by the BART Police Department:

Comment #	Nature of Comment	Action Taken	# of Days Elapsed Since Comment Filed
1	Procedure	An investigation was initiated.	37

Complaints/Investigations Concluded During Reporting Period

Dispositions/# of Days Elapsed

During the month of December 2011, 4 Citizen Complaints were concluded by the BART Police Department:

Complaint # (IA Case #)	Nature of Complaint	Disposition	# of Days Elapsed Since Complaint Filed
1 (IA #2011-02)*	<u>Police Officer #1:</u> <ul style="list-style-type: none">• Force• Search or Seizure• Courtesy	<u>Police Officer #1:</u> <ul style="list-style-type: none">• Force – Not Sustained• Search or Seizure – Exonerated• Courtesy – Sustained	362
2 (IA #2011-09)*	<u>Police Officer #1:</u> <ul style="list-style-type: none">• Conduct Unbecoming an Officer (2 counts)• Courtesy (2 counts)• Procedure	<u>Police Officer #1:</u> <ul style="list-style-type: none">• Conduct Unbecoming an Officer (Count 1) – Unfounded• Conduct Unbecoming an Officer (Count 2) – Not Sustained• Courtesy (Count 1) – Unfounded• Courtesy (Count 2) – Not Sustained• Procedure – Not Sustained	325
3 (IA #2011-011)	<u>Police Officer #1:</u> <ul style="list-style-type: none">• Conduct Unbecoming an Officer• Courtesy	<u>Police Officer #1:</u> <ul style="list-style-type: none">• Conduct Unbecoming an Officer – Not Sustained• Courtesy – Not Sustained	313

*This case has a completion date from the previous month but the data was not available in time for that report; it has therefore been included in this report.

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4 (IA #2011-017)*	<u>Police Officer #1:</u> <ul style="list-style-type: none"> • Search or Seizure <u>Police Officer #2:</u> <ul style="list-style-type: none"> • Search or Seizure <u>Police Officer #3:</u> <ul style="list-style-type: none"> • Supervision <u>Civilian #1:</u> <ul style="list-style-type: none"> • Performance 	<u>Police Officer #1:</u> <ul style="list-style-type: none"> • Search or Seizure – Sustained <u>Police Officer #2:</u> <ul style="list-style-type: none"> • Search or Seizure – Not Sustained <u>Police Officer #3:</u> <ul style="list-style-type: none"> • Supervision – Sustained <u>Civilian #1:</u> <ul style="list-style-type: none"> • Performance – Sustained 	294
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*This case has a completion date from the previous month but the data was not available in time for that report; it has therefore been included in this report.

During the month of December 2011, 1 Administrative Investigation was concluded by the BART Police Department:

Investigation # (IA Case #)	Nature of Investigation	Disposition	# of Days Elapsed Since Investigation Initiated
1 (IA #2011-024)*	<u>Police Officer #1:</u> <ul style="list-style-type: none"> • Workplace Discrimination/Harassment • Conduct Unbecoming an Officer <u>Police Officer #2:</u> <ul style="list-style-type: none"> • Workplace Discrimination/Harassment • Conduct Unbecoming an Officer 	<u>Police Officer #1:</u> <ul style="list-style-type: none"> • Workplace Discrimination/Harassment – Sustained • Conduct Unbecoming an Officer – Sustained <u>Police Officer #2:</u> <ul style="list-style-type: none"> • Workplace Discrimination/Harassment – Not Sustained • Conduct Unbecoming an Officer – Not Sustained 	412

*This case has a completion date from the previous month but the data was not available in time for that report; it has therefore been included in this report.

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	<u>Police Officer #3:</u> <ul style="list-style-type: none"> • Workplace Discrimination/Harassment • Conduct Unbecoming an Officer 	<u>Police Officer #3:</u> <ul style="list-style-type: none"> • Workplace Discrimination/Harassment – Not Sustained • Conduct Unbecoming an Officer – Not Sustained 	
	<u>Police Officer #4:</u> <ul style="list-style-type: none"> • Workplace Discrimination/Harassment • Conduct Unbecoming an Officer 	<u>Police Officer #4:</u> <ul style="list-style-type: none"> • Workplace Discrimination/Harassment – Sustained • Conduct Unbecoming an Officer – Sustained 	
	<u>Police Officer #5:</u> <ul style="list-style-type: none"> • Workplace Discrimination/Harassment • Conduct Unbecoming an Officer 	<u>Police Officer #5:</u> <ul style="list-style-type: none"> • Workplace Discrimination/Harassment – Not Sustained • Conduct Unbecoming an Officer – Not Sustained 	

During the month of December 2011, 3 Comments of Non-Complaint were addressed by the BART Police Department:

Comment # (IA Case #)	Nature of Comment	Disposition	# of Days Elapsed Since Comment Filed
1 (IA #2011-045)	Neglect of Duty; Procedure	Supervisory Referral ⁷	140
2 (IA #2011-071)	Procedure	Supervisory Referral	59
3 (IA #2011-084)	Procedure	Supervisory Referral	37

¹ In addition to reporting on complaints received by the BART Police Department, the Citizen Oversight Model requires reporting on all complaints received by the “Citizen Board, Office of the District Secretary, and other District departments.” As complaints received by the Citizen Board are customarily directed to the OIPA for further action, such complaints are included in the Quantitative Report above; the OIPA is not aware of additional

complaints about the BART Police Department received by the Office of the District Secretary or other District departments.

² This number includes all Citizen Complaints filed against members of the BART Police Department, as well as Administrative Investigations generated internally by BART Police Department members (as opposed to being filed by a citizen). This number also includes what the BART Police Department manual defines as “Comments of Non-Complaint;” these are comments “on the actions of a department employee, where the reporting party expressly states that they do not want to make a complaint.” (BART Police Department Policy Manual, Policy 1020.1.1(e)).

³ This number indicates all investigations that are open as of the end of the reporting period. It includes Citizen Complaints (regardless of whether the investigation is being conducted by OIPA, the BART Police Department, or both), Comments of Non-Complaint, and Administrative Investigations.

⁴ This number refers to appeals filed with OIPA by complainants who have been issued the findings of the BART Police Department’s internal investigation into their complaint regarding on-duty incidents. The OIPA has a responsibility to review such appeals pursuant to the BART Citizen Oversight Model, Chapter 1-04 (E).

⁵ This number refers to all appeals initiated by the Citizen Review Board after receiving and reviewing the findings issued by the OIPA in a given case. The routes of all such appeals are described in detail in the BART Citizen Oversight Model, Chapter 1-04 (B) (iv-v).

⁶ In all cases where it appears in this report, the number of days elapsed refers to the number of days between the date of the complaint and the date of the report (as noted on the front page).

⁷ In defining a “Supervisory Referral,” the BART Police Department Manual indicates that an assigned supervisor will address the issue informally with the involved employee and document the content of the conversation in a memorandum to the Internal Affairs Section. (BART Police Department Policy Manual, Policy 1020.1.1(f)).